



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 2

[Docket No. USCG-2018-0538]

RIN 1625-AC55

User Fees for Inspected Towing Vessels

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to update its user fees for seagoing towing vessels that are 300 gross tons or more and to revise user fees for other inspected towing vessels. The Coast Guard is proposing these updates because we are required to establish and maintain a fair fee for our vessel inspection services and to separate the fees for inspection options that involve third-party auditors and surveyors from inspection options that do not involve third parties. Under this proposed rule, vessels using the Alternate Compliance Program, Streamlined Inspection Program, or the Towing Safety Management System options would pay a lower fee than vessels that use the traditional Coast Guard inspection option.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2018-0538 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document

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SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or

recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If you cannot submit your material by using

<https://www.regulations.gov>, contact the person in the **FOR FURTHER**

INFORMATION CONTACT section of this proposed rule for alternate instructions.

Documents mentioned in this proposed rule as being in the docket, and all public comments, will be available in our online docket at <https://www.regulations.gov>, and can be viewed by following that website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted or if a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

We do not plan to hold a public meeting but we will consider doing so if public comments indicate that a meeting would be helpful and we determine that a meeting would aid this rulemaking. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

ACP	Alternate Compliance Program
CGAA	Frank LoBiondo Coast Guard Authorization Act of 2018
COI	Certificate of Inspection
DHS	Department of Homeland Security
FR	Federal Register
FTE	Full-Time Equivalent
IRFA	Initial Regulatory Flexibility Analysis
MISLE	Marine Information for Safety and Law Enforcement
NAICS	North American Industry Classification System
NPRM	Notice of proposed rulemaking
OBRA	Omnibus Budget Reconciliation Act of 1990
OMB	Office of Management and Budget

RFA	Regulatory Flexibility Act
SBA	Small Business Administration
§	Section
SIP	Streamlined Inspection Program
SSM	Sector Staffing Model
TSMS	Towing Safety Management System
U.S.C.	United States Code

III. Basis and Purpose

In this section, the Coast Guard identifies the problem we intend to address, the well-established statutory authority that enables us to issue this proposed rule, and the recent legislation that provides additional authority for this proposed rulemaking.

A. The Problem We Seek to Address

The Coast Guard and Maritime Transportation Act of 2004¹ added towing vessels to the list of vessels subject to inspection in 46 U.S.C. 3301. As directed by 46 U.S.C. 3307, each vessel subject to inspection under part A of Subtitle II must undergo an initial inspection for certification, and after receiving a Certificate of Inspection (COI) the vessel must undergo periodic inspections.

On June 20, 2016, we published an *Inspection of Towing Vessels* final rule that established safety regulations governing the inspection, standards, and safety management systems for towing vessels.² We estimated that the rule would apply to more than 5,500 towing vessels that had previously been uninspected vessels. That rule established the 46 CFR subchapter M – Towing Vessels (parts 136 through 144), which requires vessels subject to subchapter M to obtain a COI. The phase-in period for obtaining these COIs under subchapter M runs from July 20, 2018 to July 19, 2022.³

¹ Pub. L. 108-293, 118 Stat. 1028 (August 9, 2004), with relevant chapters codified in 46 U.S.C. 3301.

² 81 FR 40004.

³ See 46 CFR 136.202, which calls for 25 percent of the vessels of each owner or managing operator of more than one existing towing vessel to have COIs by July 22, 2019. It calls for an additional 25 percent to obtain COIs for each of the remaining 3 years of the phase-in period. The final rule was effective July 20, 2016, but it delayed the implementation of most of its part 140 Operations, part 141 Lifesaving, part 142 Fire Protection, part 143 Machinery and Electrical Systems and Equipment, and part 144 Construction and Arrangement requirements until July 20, 2018. See §§ 140.105, 141.105, 142.105, 143.200, and 144.105.

In the *Inspection of Towing Vessels* final rule, we stated our plan to begin a separate rulemaking for annual inspection fees for towing vessels that would reflect the specific program costs associated with the two options for documenting compliance to obtain a COI,⁴ the Coast Guard option and the Towing Safety Management System (TSMS) option.⁵ We also stated that until then we will use the existing fee of \$1,030 in 46 CFR 2.10–101 that applies to any inspected vessel not listed in Table 2.10-101 as the annual inspection fee for towing vessels subject to subchapter M.⁶

In addition to towing vessels subject to subchapter M that are required to obtain COIs, there are towing vessels that qualify as seagoing motor vessels (300 gross tons or more) that are subject to 46 CFR chapter I, subchapter I regulations for cargo and miscellaneous vessels.⁷ These vessels are currently required to have COIs. The annual inspection fee for these subchapter I towing vessels was established in 1995 at \$2,915, and has never been updated.⁸

The law requires that we establish a fee for our inspection services that is fair and based on costs to the Government, value to the recipient, and public interest. It further requires that we review the costs to the Government of such inspections for towing vessel using the Coast Guard option and those using an option involving a third party, revise such fees if there is a difference, and comply with the same requirements for establishing fees when doing so.

B. Legal Authority to Address this Problem

The Coast Guard is issuing this proposed rule based on authority in section 2110

⁴ See 46 CFR 136.130—Options for documenting compliance to obtain a Certificate of Inspection.

⁵ TSMS is a voluntary inspection option that permits qualified third-party organizations to conduct certain vessel examinations in place of Coast Guard inspections. See 46 CFR 138—Towing Safety Management System (TSMS).

⁶ See 81 FR at 40005.

⁷ See 46 CFR 2.01-7 and 90.05-1. Under 46 U.S.C. 3301, seagoing motor vessels are subject to inspection. Towing vessels are motor vessels, (vessels propelled by machinery other than steam) and they fall within the definition of “seagoing motor vessel” if they are at least 300 gross tons and make voyages beyond the Boundary Line. See definitions in 46 U.S.C. 2101.

⁸ See *Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels* (60 FR 13550 (March 13, 1995); 46 CFR 2.10-101.

of Title 46 of the United States Code (46 U.S.C. 2110), which has been delegated to the Commandant under DHS Delegation No. 0170.1(II)(92). Section 2110 of Title 46 directs the Secretary of the Department in which the Coast Guard is operating to establish a fee or charge for a service or thing of value provided by the Secretary under Subtitle II of Title 46. Inspections and related services described in Subtitle II of Title 46 are considered a service or thing of value provided by the Secretary.⁹

Section 2110 also directs that the fee or charge be established in accordance with 31 U.S.C. 9701, which specifies that each charge be fair and based on the costs to the Government, the value of the service or thing to the recipient, public policy or interest served, and other relevant facts. Consistent with these objectives, once a fee or charge is established, section 2110 allows it to be adjusted to accommodate changes in the cost of providing a specific service or thing of value.

C. Recent Legislation

On December 4, 2018, the Frank LoBiondo Coast Guard Authorization Act of 2018 (CGAA) was enacted.¹⁰ Section 815 of CGAA directs the Coast Guard to review and revise the fee for inspections. First, the Coast Guard must compare the costs to the Government of towing vessel inspections performed by the Coast Guard and towing vessel inspections performed by a third party, to determine if they are different. The Coast Guard interprets “costs to the Government” in section 815(a) to mean the cost to the Coast Guard of providing inspection and related services to determine whether a vessel meets requirements necessary for it to maintain its COI. We have conducted that comparison and determined that there is a difference in costs to the Government between the inspection options for towing vessels that involve a third party and those that do not.

If there is a difference in costs, section 815 of CGAA directs us to revise the fee

⁹ 46 U.S.C. 2110(a)(1).

¹⁰ Pub. L. 115-282, 132 Stat. 4192.

we assess for such inspections to conform to 31 U.S.C. 9701, and to base the fee on the cost to the Government. This is the intent of this notice of proposed rulemaking (NPRM).

IV. Background

A. Origins of Annual Vessel Inspection Fees

The Omnibus Budget Reconciliation Act of 1990 (OBRA) amended 46 U.S.C. 2110 and removed long-standing prohibitions against imposing certain user fees.¹¹ As amended by the OBRA, 46 U.S.C. 2110 requires the establishment and collection of user fees for Coast Guard services provided under Subtitle II of Title 46, United States Code. On March 13, 1995, the Coast Guard published the final rule on *Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels*.¹² The fees were intended to recover the costs associated with providing Coast Guard vessel inspection services directly or through an alternative reinspection program, although alternative reinspection program only applied to certain offshore supply vessels. The final rule established user fees for services related to commercial vessel inspection including annual fees for seagoing towing vessels.

On June 20, 2016, the Coast Guard published the final rule on the *Inspection of Towing Vessels*. The vessels subject to this 2016 rule were not considered when the original vessel inspection fees were established in 1995, except to the extent that the table of fees included a default fee for any inspected vessel not listed. We indicated in the 2016 rule that we would establish specific fees, in a subsequent rulemaking, that would reflect program costs associated with the TSMS and Coast Guard inspection options for obtaining COIs. We stated that until those specific fees were established, the annual inspection fee for towing vessels subject to subchapter M would be the existing fee of

¹¹ Pub. L. 101-508, 104 Stat. 1388 with relevant chapters codified in 46 U.S.C. 2110.

¹² 60 FR 13550.

\$1,030 in 46 CFR 2.10-101 for any inspected vessel not listed in Table 2.10-101.¹³

B. Current Fees for Subchapter I and Subchapter M Towing Vessels

The Coast Guard currently charges an annual vessel inspection fee for U.S. and foreign vessels requiring a COI, following the fee schedule set in § 2.10-101.¹⁴ The current fee for seagoing towing vessels inspected under subchapter I is \$2,915 for all inspection options—the Coast Guard, the Alternate Compliance Program (ACP), and the Streamlined Inspection Program (SIP). The current fee for towing vessels inspected under subchapter M (all inspection options) is \$1,030, which is the fee for “[a]ny vessel not listed in this table.”

V. Discussion of Proposed Rule

This proposed rule would update existing annual inspection fees for both seagoing towing vessels (300 gross tons or more) and vessels subject to the relatively new towing-vessel regulations in 46 CFR subchapter M.

The annual inspection fees are located in 46 CFR part 2 – Vessel Inspections. In addition to fees in § 2.10-101, this part contains definitions in § 2.10-25. We propose to add the following new defined terms to § 2.10-25—

- *Annual vessel inspection fee;*
- *Alternate Compliance Program option;*
- *Coast Guard option;*
- *Streamlined Inspection Program option;*
- *Towing Safety Management System option; and*
- *Towing vessel.*

¹³ See 81 FR at 40005.

¹⁴ Under 46 CFR 2.01-6(b), foreign vessels from countries which are non-signatory to the International Convention for the Safety of Life at Sea, 1974, are issued a COI, if the inspector approves the vessel and its equipment as described in § 2.01-5. We have records of COIs issued to foreign vessels in our Marine Information for Safety and Law Enforcement (MISLE) database, but no records of a COI issued to a foreign towing vessel.

To reflect the involvement of third parties in inspection options, such as the ACP and TSMS, we propose to define “annual vessel inspection fee” as the fee charged by the Coast Guard for providing inspection and related services to determine whether a vessel meets the requirements to maintain its COI. The fee charged by the Coast Guard reflects the cost to the Coast Guard. There are several existing options for inspection, which we propose to define in revised § 2.10-25 by reference to the regulations that establish each option. For both seagoing and subchapter M towing vessels, there is a Coast Guard option in which the Coast Guard performs all of the relevant inspection activity. For both types of vessels there is also a third-party option, already established in regulation, in which a third party performs some of the relevant activity, but the Coast Guard still inspects the vessel and examines evidence of compliance provided by third parties.

For seagoing towing vessels there is an additional option, the SIP. The SIP option does not involve a third party. Under the SIP option, a vessel is inspected in accordance with an approved Vessel Action Plan that the company’s SIP agent develops with guidance from the Coast Guard. In our definition of SIP, we point to subpart E of 46 CFR part 8, which spells out SIP program requirements.

We propose to define “towing vessel” as a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside. This definition matches the definition of towing vessel in 46 U.S.C. 2101.

We are also proposing to modify the definition of an existing term in § 2.10-25, *Sea-going towing vessel*. We would remove the modifier “seagoing” used within the definition itself, and insert a description of what seagoing means. The proposed insertion is “and that makes voyages beyond the Boundary Line as defined by 46 U.S.C. 103.”¹⁵

¹⁵ Under 46 U.S.C. 103 and 33 U.S.C. 151(b), boundary lines are used for dividing inland waters of the United States from the high seas to delineate the application of certain U.S. statutes. For a list of boundary lines and the

We would further specify that the vessel must be 300 gross tons or more, to distinguish seagoing towing vessels from towing vessels subject to subchapter M that travel beyond the Boundary Line. We would also remove the hyphen from seagoing.

A. Categories of Annual Fees

For towing vessels subject to subchapter M, we propose two fee categories; the Coast Guard option and the TSMS option. For seagoing towing vessels subject to subchapter I, we propose three fee categories; the Coast Guard option, the ACP option and the SIP option. This would allow the Coast Guard to provide reduced fees for subchapter M vessel owners who choose the TSMS option described in 46 CFR part 138, and for subchapter I vessel owners who choose the ACP or SIP option described in 46 CFR part 8. We anticipate this fee structure will help to ensure the Coast Guard's ability to recover full costs to the Government, and to separate annual inspection fees for options involving third-party surveys and audits of towing vessels using safety management systems. Several inspection options have lower user fees than the Coast Guard option. These inspection alternatives either require fewer Coast Guard inspection activities or the Coast Guard inspection activities take less time and thus have a lower cost.

B. Amending Annual Inspection Fees for Seagoing Towing Vessels subject to Subchapter I.

We are proposing to charge one of three annual fees for seagoing towing vessels that are inspected under subchapter I:

- \$2,747 for those using the Coast Guard option;
- \$1,850 for those using the ACP option; and
- \$2,260 for those using the SIP option.

The current annual fee for seagoing towing vessels that are inspected under

statutes those lines are used to delineate, see 46 CFR part 7, which lists boundary lines for the Atlantic Coast, Gulf Coast, Pacific Coast, and the states of Alaska and Hawaii.

subchapter I is \$2,915.

For a detailed discussion of how these fees were derived, see Methodology for Calculating Fees in section V.D.

C. Establishing Specific Annual Inspection Fees for Towing Vessels Subject to Subchapter M.

We are also proposing to charge one of two fees for towing vessels inspected under subchapter M:

- \$2,184 for those using the Coast Guard option, and
- \$973 for those using the TSMS option.

The current annual fee applied to subchapter M towing vessels is \$1,030.

For a more detailed discussion of how these fees were derived, see Methodology for Calculating Fees in section V.D.

D. Methodology for Calculating Fees

This section summarizes the methodology for calculating fees. For more details, see the *Cost Study for Determining User Fees for Inspected Towing Vessels* in the docket where indicated under the section I of this preamble.

To derive the costs of the various inspection types, we used an activity-based costing¹⁶ approach in conjunction with the Sector Staffing Model (SSM). The SSM is an activity-based model designed to establish human capital requirements and quantify resources at Shore Forces units.¹⁷ The SSM measures specific activity and frequency to determine the Full-Time Equivalent (FTE) workforce needed to meet a particular workload. Data in the model is derived from Coast Guard enterprise databases and surveys conducted at the Coast Guard field unit level. The model also incorporates unit

¹⁶ Activity-based costing is a method for determining the cost of a service based on the cost of each individual element of that service.

¹⁷ Shore Forces units are Coast Guard sector commands and their sub-units or field units. See the USCG Strategic Cost Manual, M7000.4 (February 2005).

specific travel times for conducting missions, collateral duty workload, and mission required training. In the spring of 2012, the SSM was accredited in accordance with official Coast Guard policy and currently serves as the primary decision tool for managing sector enterprise staffing. Table 1 shows the cost of activities for providing COI services to each type of inspection. These costs are derived using SSM FTE calculations; see the Cost Study in the docket for the full derivation of figures.

Table 1: Per Vessel Cost of Activities for Providing COI Services by User Fee Segment

	Subchapter M: Coast Guard	Subchapter M: TSMS	Subchapter I: Coast Guard	Subchapter I: ACP	Subchapter I: SIP
Inspection Activity Costs	\$1,183	\$408	\$1,618	\$874	\$1,213
Travel Costs	\$317	\$40	\$356	\$356	\$356
Supervision and Administration Costs	\$243	\$84	\$332	\$179	\$249
Indirect Costs	\$442	\$442	\$442	\$442	\$442
Total Annual Costs	\$2,184	\$973	\$2,747	\$1,850	\$2,260

The Coast Guard intends to collect one of five different user fees from the approximately 5,385 towing vessels that require COIs under subchapters I and M.¹⁸ Table 2 shows the current fee, the proposed fee, the incremental fee adjustment and the percent change to the user fee. The annual costs of services for each vessel class is the proposed user fee for that vessel class.

Table 2: Current Subchapter M and I User Fees and Proposed User Fee Adjustment Amounts

Fee Type/User Fee Class	Current Fee	Proposed Fee	Incremental Fee Adjustment	Percent Change
Subchapter M: Coast Guard option	\$1,030	\$2,184	\$1,154	112%
Subchapter M: TSMS	\$1,030	\$973	-\$57	-6%

¹⁸ Vessel population data came from MISLE as of June 2021. See the *Affected Population* section for more details.

Subchapter I: Coast Guard option	\$2,915	\$2,747	-\$168	-6%
Subchapter I: Alternative Compliance Program option	\$2,915	\$1,850	-\$1,065	-37%
Subchapter I: Streamlined Inspection Program option	\$2,915	\$2,260	-\$655	-22%

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB). Section 6(a)(3) of Executive Order 12866 requires an assessment of potential costs and benefits. The analysis follows.

Currently, towing vessels are inspected under subchapter I or subchapter M, dependent on their size and area of operation. All inspected towing vessels are required to pay a user fee. Subchapter I towing vessels pay a user fee of \$2,915 annually. Subchapter M towing vessels pay a user fee of \$1,030 annually. The subchapter M user fee is not specific to towing vessels, rather it is for all inspected vessels that do not have a

specific user fee on Table 2.10-101.

We calculate that in total 42 towing vessels inspected under subchapter I are paying \$122,430 annually and that in total 5,343 towing vessels inspected under subchapter M are paying \$5,503,290 annually for inspection services. Towing vessels choose between several vessel inspection alternatives. Once selected, the inspection option is unlikely to change due to a change in user fees, since there are private business costs associated with changing inspection options. Coast Guard COI service costs are fully funded through annual appropriations.¹⁹

This proposed rulemaking would establish a user fee specific to subchapter M towing vessels, revise the user fee specific to subchapter I towing vessels, and establish user fees for vessel inspection alternatives that require fewer Coast Guard inspection activities or the Coast Guard inspection activities take less time and thus have a lower cost to Coast Guard. We anticipate this proposed fee structure will help to ensure the Coast Guard's ability to offset costs to the government, and to separate annual inspection fees for options involving third-party surveys and audits of towing vessels using safety management systems. This proposed rule would result in estimated transfers from towing vessel operators for the COI services of \$1.5 million to \$1.6 million per year to the Federal Government. The 10-year transfers, undiscounted, total \$15,719,319. The discounted annualized figure, at 7 percent, is \$1,577,491.

The Coast Guard proposes to do the following through this rulemaking:

(1) Modify the definition in § 2.10-25 of *Sea-going towing vessel*. We would remove the modifier “seagoing” used within the definition, and replace it with a description of what “seagoing” means. The proposed insertion is “and that makes voyages beyond the Boundary Line as defined by 46 U.S.C. 103.” Also, we would

¹⁹ The user fees collected for these services are offsetting receipts and are deposited to the Department of Treasury and credited to DHS appropriation as proprietary receipts. See 46 U.S.C. 2110(h).

specify that the vessel must be 300 gross tons or more to distinguish seagoing towing vessels from towing vessels that travel beyond the Boundary Line, which may be subject to subchapter M. This is an administrative change and it would have no economic impact.

(2) Amend the user fees for 46 CFR subchapter I towing vessels. The current fee for the 42 seagoing towing vessels inspected under subchapter I is \$2,915 for all inspection options (Coast Guard, ACP, and SIP). This proposed rule would make the fees specific to each inspection as shown below in table 3. Vessels have already chosen their inspection option and are unlikely to change away from their current option. This is because there are costs associated with switching inspection options and there are private industry transactions and business specific costs beyond the inspection cost that make the user fee a small portion of the overall cost of inspections.

Table 3: Current and Proposed Subchapter I Towing Vessel User Fees

Inspection Type	Current Fee	Proposed Fee
Coast Guard option	\$2,915	\$2,747
Alternate Compliance Program option (ACP)		\$1,850
Streamlined Inspection Program option (SIP)		\$2,260

(3) Create a specific user fee category for the 5,343 towing vessels under 46 CFR subchapter M towing vessels in the table of fees in § 2.10-101 and update the current user fees for annual inspection fees for towing vessels to reflect the specific program costs associated with the two subchapter M options: the TSMS option and the Coast Guard inspection option. The current fee is \$1,030 for the annual inspection fee for towing vessels subject to subchapter M. This proposed rule would make the fees specific to each inspection type as shown below in table 4. Similar to subchapter I vessels, subchapter M vessels have already chosen their inspection option and are unlikely to change for the

same reasons.

Table 4: Current and Proposed Subchapter M Towing Vessel User Fees

Inspection Type	Current Fee	Proposed Fee
Coast Guard option	\$1,030	\$2,184
TSMS option		\$973

(4) Define the following new terms that will be added to the table of fees in § 2.10-101: *Annual vessel inspection fee*, *Alternative Compliance Program option*, *Coast Guard option*, *Streamlined Inspection Program option*, *Towing Safety Management System option*, and *Towing Vessel*. This is an administrative change and has no economic impact. All of these points are described in greater detail in the Cost Study.

To obtain the affected population for this proposed rule, we used the MISLE (Marine Information for Safety and Law Enforcement) database. MISLE is the Coast Guard's vessel and marine activity database which contains the best and most readily available vessel population data. According to MISLE data as of June 2021, the total affected population of this rule is 5,385 inspected towing vessels. There are approximately 5,343 towing vessels that will require inspection under 46 CFR subchapter M and 42 towing vessels that are inspected under 46 CFR subchapter I. Though the subchapter M population is decreasing by an average of 33 vessels per year since 2016, the subchapter I population is expected to remain stable, because it historically has done so.

Rather than a single fee category for all towing vessels covered by a subchapter, the Coast Guard is proposing two categories for subchapter M and three categories for subchapter I vessels. For subchapter M, the inspection types are the Coast Guard option and the TSMS option. For subchapter I, the inspection types are the Coast Guard option, the ACP option, and the SIP option. Table 5 presents the total population of inspected

towing vessels that would be impacted by this proposed rule. These are the current rates of inspection for the subchapters, though not all vessels are currently inspected. Table 6 presents the projected subchapter M population and their projected counts of inspection type. We assume that the subchapter M towing vessel population will maintain a 70-percent-TSMS option and 30-percent-Coast-Guard option split over the duration of the analysis.

Table 5: Total Affected Population for Inspected Towing Vessels

User Fee Categories				Population
Subchapter M	Coast Guard option	TSMS		Total
Population	1,603	3,740		5,343
% of Population	30%	70%		100%
Subchapter I	Coast Guard option	Vessel Inspection Alternative		Total
		Alternate Compliance Program (ACP)	Streamlined Inspection Program (SIP)	
Population	28	13	1	42
% of Population	67%	31%	2%	100%
Total Population				5,385

Table 6: Projected subchapter M population by Inspection Option

Estimated Annual Subchapter M Population by Inspection Type		
Year	CG Option	TSMS Option
Year 1	1,603	3,740
Year 2	1,592	3,718
Year 3	1,583	3,694
Year 4	1,574	3,670
Year 5	1,563	3,648
Year 6	1,554	3,624
Year 7	1,543	3,602
Year 8	1,534	3,578
Year 9	1,524	3,555
Year 10	1,514	3,532

Costs and Benefits

This proposed rule would not impose any new societal costs as all of the inspection activities are currently being done by the regulated entities and Coast Guard. Rather the impacts of this rule would be in the form of transfer payments, which are monetary payments from one group to another that do not affect total resources available to society.

This rule would not provide any quantitative benefits. However, it would have a qualitative benefit. This rule would revise user fees to more closely reflect the actual cost to the Coast Guard of providing inspection services. The result would be a more fair distribution of costs to inspected towing vessels by inspection type. Title 46 U.S.C. 2110 directs that the fee or charge be established in accordance with 31 U.S.C. 9701, which specifies that each charge be fair and based on: the costs to the Government; the value of the service or thing to the recipient, public policy, or interest served; and other relevant facts. Consistent with these objectives, once a fee or charge is established, section 2110 allows it to be adjusted to accommodate changes in the cost of providing a specific service or thing of value. This rulemaking aids the Coast Guard in compliance with those statutory requirements.

Transfer Payments

The Coast Guard proposes to adjust the user fees collected from the current entities so that there are now five different fees based on the towing vessel subchapter and program utilized for vessel certification. The Coast Guard estimates this total is approximately 5,385 towing vessels. Table 7 shows the current fee, the proposed fee, the change and the percent change to the user fee. The annual costs of services for each vessel class is the proposed user fee for that vessel class.

Table 7: Current Subchapter M and I User Fees and Proposed User Fee Adjustment Amounts

Fee Type/User Fee Class	Current Fee	Proposed Fee	Incremental Fee Adjustment	Percent Change
Subchapter M: Coast Guard option	\$1,030	\$2,184	\$1,154	112%
Subchapter M: TSMS	\$1,030	\$973	-\$57	-6%
Subchapter I: Coast Guard option	\$2,915	\$2,747	-\$168	-6%
Subchapter I: Alternative Compliance Program option	\$2,915	\$1,850	-\$1,065	-37%
Subchapter I: Streamlined Inspection Program option	\$2,915	\$2,260	-\$655	-22%

Note: Since there are no distinct categories for TSMS, SIP, or ACP in the current user fee table, all of subchapter M vessels pay one fee and all of subchapter I vessels pay one fee. Totals may not sum due to rounding.

In table 8, we show the total annual transfer payments from each vessel class to the Government and the total for all vessels. For example, Subchapter M vessels that choose the Coast Guard option would pay \$1,154 additional dollars per vessel in user fees to the Coast Guard for their inspection services. Negative numbers represent a decrease in user fees. Transfer payments are monetary payments from one group to another that do not affect total resources. For this proposed rulemaking, a user fee is a transfer payment from the vessel owner or operator to the Government to offset the costs to the Coast Guard for providing COI services. This is found by multiplying the vessel population by the incremental fee change. Because the subchapter M vessel population is projected to decrease, table 9 shows annual transfer payments for this subchapter, totals are found by multiplying the populations in table 6 by the appropriate fees.

Table 8: Annual Incremental Fee Amounts – FY 2021

Fee Type/User Fee Class	Estimated Population	Incremental Fee Change	First Year Fee Transfer Payments
Subchapter M: Coast	1,603	\$1,154	\$1,849,862

Guard option			
Subchapter M: TSMS option	3,740	-\$57	-\$213,180
Subtotal	5,343		\$1,636,682
Subchapter I: Coast Guard option	28	-\$168	-\$4,704
Subchapter I: ACP option	13	-\$1,065	-\$13,845
Subchapter I: SIP option	1	-\$655	-\$655
Subtotal	42		-\$19,204
Annual Total			\$1,617,478

Table 9: Subchapter M Annual Transfer Payments

Year	CG Option	TSMS Option	Subchapter M Total
Year 1	\$1,849,862	(\$213,180)	\$1,636,682
Year 2	\$1,837,168	(\$211,926)	\$1,625,242
Year 3	\$1,826,782	(\$210,558)	\$1,616,224
Year 4	\$1,816,396	(\$209,190)	\$1,607,206
Year 5	\$1,803,702	(\$207,936)	\$1,595,766
Year 6	\$1,793,316	(\$206,568)	\$1,586,748
Year 7	\$1,780,622	(\$205,314)	\$1,575,308
Year 8	\$1,770,236	(\$203,946)	\$1,566,290
Year 9	\$1,758,696	(\$202,635)	\$1,556,061
Year 10	\$1,747,156	(\$201,324)	\$1,545,832

With the reduction in fees to vessels under the subchapter I and subchapter M TSMS options, the first year transfers from the government to the towing vessel industry is \$232,384. The Coast Guard expects to have transfers from towing vessel operators for the COI services of \$1,636,682 in the first year to the Government. The sum of these transfers is \$1,617,478 in the first year. The 10-year transfers, undiscounted, total \$15,719,319. The discounted annualized figure, at 7 percent, is \$1,577,491. Table 10

summarizes the total 10-year transfer payments from the towing vessel industry to the Government.

Table 10: Discounted Transfer Payments from Towing Vessel Operators to the Government*

Year	Undiscounted	Discounted	
		7%	3%
1	\$1,617,478	\$1,511,662	\$1,570,367
2	\$1,606,038	\$1,402,776	\$1,513,845
3	\$1,597,020	\$1,303,644	\$1,461,500
4	\$1,588,002	\$1,211,479	\$1,410,919
5	\$1,576,562	\$1,124,067	\$1,359,956
6	\$1,567,544	\$1,044,521	\$1,312,793
7	\$1,556,104	\$969,063	\$1,265,255
8	\$1,547,086	\$900,418	\$1,221,284
9	\$1,536,857	\$835,948	\$1,177,873
10	\$1,526,628	\$776,060	\$1,135,955
Total	\$15,719,319	\$11,079,638	\$13,429,747
Annualized		\$1,577,491	\$1,574,376

*Note: Totals may not sum due to rounding.

Regulatory Alternatives

A discussion of regulatory alternatives is available in the section VI.B(6) of this preamble.

B. Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA), the Coast Guard prepared this Initial Regulatory Flexibility Analysis (IRFA) that examines the impacts of the proposed rule on small entities. Due to the anticipated impacts on small businesses, the Coast Guard is including an analysis of the NPRM requirements for informational purposes.

A small entity may be a small independent business, defined as independently owned and operated, that is organized for profit and is not dominant in its field per the Small Business Act (5 U.S.C. 632). A small entity can also be a small not-for-profit organization (any not-for-profit enterprise that is independently owned and operated and

is not dominant in its field) or a small governmental jurisdiction (a locality with fewer than 50,000 people) per the RFA. An IRFA addresses the following:

- (1) A description of the reasons why action by the agency is being considered;
- (2) A succinct statement of the objectives of, and legal basis for, the rule;
- (3) A description of and, where feasible, an estimate of the number of small entities to which the rule will apply;
- (4) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- (5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the rule; and
- (6) A description of any significant alternatives to the rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the rule on small entities.²⁰

Below is a discussion of the IRFA analysis for each of these six elements.

1. A description of the reasons why action by the agency is being considered.

The Coast Guard is considering updating the user fees for inspected towing vessels because after reviewing the costs to the Government of inspections under the Coast Guard option or options using a third party, the Coast Guard has determined that updates are necessary to ensure that fees for all options are fair and based on costs to the Government. User fees for subchapter I inspected towing vessels have not been updated since 1995. The proposed changes are also consistent with the Coast Guard's statement in the 2016 final rule, *Inspection of Towing Vessels*, that we planned to promulgate a

²⁰ 5 U.S.C. 603.

separate rulemaking for annual inspection fees for towing vessels that would reflect the specific program costs associated with the two subchapter M options—the TSMS option and the Coast Guard inspection option.

The purpose of this proposed rule is to redistribute the burden of inspection activities from the Coast Guard to the towing vessel industry.

2. A succinct statement of the objective of, and legal basis for, the rule.

This proposed regulatory action is necessary to adjust the user fee schedule to better reflect the cost of COI services to the government, for subchapters I and M towing vessels. The Coast Guard is issuing this proposed rule based on authority in 46 U.S.C. 2110, which has been delegated to the Commandant under DHS Delegation No. 0170.1(II)(92). Title 46 U.S.C. 2110 directs the Coast Guard to establish a fee, or charge, for a service or thing of value it provides in accordance with 31 U.S.C. 9701. Inspections and related services described in Subtitle II of Title 46 United States Code are considered a service of value provided by the Coast Guard. Section 31 U.S.C. 9701 specifies that each fee or charge be fair and based on the costs to the government, the value of the service to the recipient, public policy or interest served, and other relevant facts. Once a fee or charge is established, 46 U.S.C. 2110 allows it to be adjusted to accommodate changes in the cost of providing a specific service or thing of value.

In addition, section 815 of CGAA directs the Coast Guard to review and revise the fee for inspections if necessary to comply with 31 U.S.C. 9701. The Coast Guard interprets “costs to the Government” in section 815(a) to mean the cost to the Coast Guard of providing inspection and related services to determine whether a vessel meets requirements necessary for it to maintain its COI.

3. A description of and, where feasible, an estimate of the number of small entities to which the rule will apply.

The proposed rule would affect the owners and operators of certain towing vessels

under subchapters I and M. We constructed this towing vessel population from the Coast Guard's MISLE system. From this database, we identified 5,385 vessels affected by this proposed rule—5,343 subchapter M towing vessels and 42 subchapter I towing vessels. There are 1,236 unique companies that own or operate these vessels. Five companies own vessels under both subchapters I and M.

We used available operator name and address information to research public and proprietary databases for entity type (subsidiary or parent company), primary line of business, employee size, revenue, and other information.²¹ We found vessels owned by 21 government entities and 4 non-profit entities. The remaining 1,211 are business entities. For governmental jurisdictions, we determined whether the jurisdiction had populations of less than 50,000 as per the criteria in the RFA. For nonprofits, we evaluated whether the nonprofit was independently owned and operated and was not dominant in its field.²² For the business entities, we matched their information with the latest Small Business Administration (SBA) *Table of Small Business Size Standards* to determine if a business entity is small in its primary line of business as classified in the North American Industry Classification System (NAICS).²³

We broke the population down into subchapters I and M. For subchapter M, we randomly selected a sample size from the 1,222 unique towing vessel companies to reach the 95 percent confidence level. Using Cochran's Formula, Coast Guard chose a statistically valid random sample of 385 businesses that own and operate towing vessels.²⁴

There are a total of 97 NAICS-coded industries in this proposed rule's sample

²¹ <https://www.cortera.com/> and <https://www.manta.com/>

²² <https://www.guidestar.org>

²³ <https://www.sba.gov/document/support-table-size-standards>

²⁴ A statistically valid random sample size of 292 businesses would be required to achieve a 95-percent confidence level out of the 1,222 unique towing vessel companies. In this analysis, Coast Guard oversampled to analyze 385 businesses to ensure enough data and information was available on the businesses to meet the sampling requirements.

affected population. Table 11 displays the 10 industries that appear most frequently in the affected population of owners or operators of towing vessels in subchapters I and M.

Table 11: Most Common NAICS Codes

NAICS Code	Description	Small Entity Definition	Count of Towing Vessel Owners or Operators	Percent of Total*
488330	Navigational Services to Shipping	< \$41,500,000	40	10%
713930	Marinas	< \$8,000,000	34	9%
237990	Other Heavy and Civil Engineering Construction	< \$39,500,000	31	8%
238910	Site Preparation Contractors	< \$16,500,000	31	8%
441222	Boat Dealers	< \$35,000,000	28	7%
483211	Inland Water Freight Transportation	< 750 Employees	23	6%
488320	Marine Cargo Handling	< \$41,500,000	12	3%
336611	Ship Building and Repairing	< 1,250 Employees	10	3%
488210	Support Activities for Rail Transportation	< \$16,500,000	5	1%
483212	Inland Water Passenger Transportation	< 500 Employees	5	1%

*Note: Total does not sum to 100 percent, since these percentages reflect only the top 10 most common NAICS codes of the sample. The remaining 44 percent of NAICS codes were not within the 10 most commonly occurring.

Coast Guard chose a subchapter M sample of 385 businesses that own and operate the towing vessels. Of the 385 businesses, 37 exceeded the SBA small business size standards, 265 companies were considered to be small businesses by the SBA size standards, and 83 companies had no information available. Consistent with DHS practice, entities with no information available will be considered as small entities. Thus, there are 348 businesses in our sample that we consider to be small entities. Based on our random sample, 90.4 percent of subchapter M entities are considered small and therefore when applied to the population of unique towing vessel companies, 1,105 subchapter M

entities would be considered small.

For subchapter I, we searched all 14 unique towing vessel companies in the available databases. Of the 14 unique towing vessel companies in the subchapter I population, 13 had available revenue and employee data. Of these 13 unique towing vessel companies, 6 exceeded the SBA small business size standards and 7 were considered small businesses by the SBA size standards. Consistent with DHS practice, we consider entities for which information was not available to be small. Thus, there are eight businesses in our population that we consider to be small entities.

For this analysis, we considered the annual weighted average transfer from industry to the Coast Guard by subchapter. For subchapter M vessels, we found the average fleet size for small entities is two vessels and multiplied it by the weighted average of incremental changes in user fees. According to our analysis of small subchapter M vessels, 97 percent of them choose the Coast Guard option for their inspection option and 3 percent choose the TSMS option. Thus, we multiplied the rates for vessels choosing their inspection option by the incremental change in user fees and the average fleet size for small subchapter M entities, which yielded an average impact of \$1,117 per subchapter M vessel and \$2,234 per small subchapter M entity. We repeated this process for subchapter I entities. We found the average fleet size for small entities, which is 1, and multiplied it by the weighted average of incremental changes in user fees. According to our analysis of small subchapter I vessels, 50 percent of them choose the ACP option for their inspection option, 37.5 percent choose the Coast Guard option, and the remaining 12.5 percent choose the SIP option. This proposed rule would save subchapter I entities an average of \$799. Tables 12 and 13 show the impact on small company revenue for each subchapter that we had revenue data for.

Table 12: Subchapter M Estimated Annual Revenue Impact

Revenue Impact Range	Number of Entities	Percent of Entities
0% <= 1%	233	87.9%
1% <= 3%	27	10.2%
3% <= 5%	3	1.1%
Above 5%	2	0.8%
Total	265	100%

Table 13: Subchapter I Estimated Annual Revenue Impact

Revenue Impact Range	Number of Entities	Percent of Entities
0% <= 1%	7	100%
1% <= 3%	0	0%
3% <= 5%	0	0%
5% <= 10%	0	0%
Above 10%	0	0%
Total	7	100%

According to our analysis, 87.9 percent of subchapter M entities will have an annual impact to revenue of 1 percent or less. Approximately, 10.2 percent will have an annual impact to revenue between 1 and 3 percent. The remaining 1.9 percent will have an annual impact to revenue greater than 3 percent. For subchapter I entities, our analysis shows a less than 1 percent impact to annual revenue for all small entities.

4. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

This proposed rule calls for no new reporting, recordkeeping or other compliance requirements.

5. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the rule.

There are no relevant Federal rules that may duplicate, overlap, or conflict with

this proposed rule.

6. A description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

Alternatives considered include adjusting our current user fees for inflation, updating only the Coast Guard option user fees or continuing with the current user fees. Each of these options will be considered in the following discussion.

Under the first alternative, Coast Guard considered to adjust the current user fees for inflation from 1995 dollars to 2020 dollars. To adjust for inflation, we use an inflation factor from the annual GDP deflator data. We calculate the inflation factor of 1.58 by dividing the annual 2020 index number (113.623) by the annual 1995 index number (71.864). We then multiply the current fees for subchapters I and M by the inflation factor and round it to the nearest dollar. Subchapters I and M would experience a 58-percent increase in fees and incur annual fees of \$597 and \$1,691, respectively. The fees, when multiplied by the number of annual COI renewals, yield an annual revenue of approximately \$8.9 million and transfer payments of \$3.2 million. We rejected this alternative because the annual revenue collected under this methodology does not reflect the full cost to the Coast Guard of providing the COI-related services. Table 14 shows the inflation adjusted user fees for subchapter I and M vessels.

Table 14: Comparison of User Fees in 1995 Dollars and 2020 Dollars (Alternative 1)*

Fee Category	1995 \$ (Current Fee)	Inflation Factor	2020 \$	Population	Incremental Fee Adjustment	Annual Fee Transfer Payments	Annual Revenue Collected from User Fees
Subchapter I vessels	\$2,915	1.58	\$4,606	42	\$1,691	\$71,009	\$193,439
Subchapter M vessels	\$1,030	1.58	\$1,627	5,343	\$597	\$3,191,908	\$8,695,198
Total						\$3,262,918	\$8,888,638

*Note: All dollar figures rounded to the closest whole dollar.

In our second alternative, we considered updating only the Coast Guard option

user fees. We rejected this alternative because it would not comply with section 815 of CGAA. That section directs the Coast Guard to review and, based on our findings, revise the fee for towing vessel inspections. First, the Coast Guard must compare the costs to the Government of towing vessel inspections performed by the Coast Guard and towing vessel inspections performed by a third party, to determine if they are different. We have conducted that comparison and determined that there is a difference in costs to the Government between the inspection options for towing vessels that involve a third party and those that do not. If there is a difference in costs, section 815 of CGAA directs us to revise the fees we assess for towing vessel inspections to conform to 31 U.S.C. 9701, and to base the fee on the cost to the Government.

In our third alternative, we considered maintaining the current user fee without an adjustment. We rejected this alternative because the annual revenue collected under this methodology would not cover the full cost to the Coast Guard of providing the COI-related services.

Conclusion

In conclusion, we estimate that 87.9 percent of subchapter M entities with revenue data will have an annual impact to revenue of 1 percent or less. Approximately, 10.2 percent will have an annual impact to revenue between 1 and 3 percent. The remaining 1.9 percent will have an annual impact to revenue greater than 3 percent. For subchapter I entities, our analysis shows a less than 1 percent impact to annual revenue for all small entities that had revenue data. We also discussed several regulatory alternatives including our preferred alternative. Our preferred alternative is to: (1) update the user fee for seagoing towing vessels; (2) revise the user fee for other inspected towing vessels; and (3) establish fees for towing vessels using the ACP, SIP, or the TSMS options. Vessels using the ACP, SIP or TSMS option would pay a lower fee than vessels that use the traditional Coast Guard inspection option.

We are interested in the potential impacts from this rule on small entities and we request public comment on these potential impacts. If you think that this rule will have a significant economic impact on you, your business, or your organization, please submit a comment to the docket at the address under **ADDRESSES** in the rule. In your comment, explain why, how, and to what degree you think this rule will have an economic impact on you.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 3520.

The Coast Guard has a collection of information for the collection of user fees

from inspected vessels. This collection is 1625-0074 titled “Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels.” The collection of information hour burden for collecting user fees is independent of the amount collected. Towing vessels inspected under 46 CFR subchapters I and M must currently pay \$1,030 and \$2,915 respectively. This proposed rulemaking would simply adjust the user fee amount to more accurately reflect the current cost of the Coast Guard for performing inspections—and would not change the number of towing vessels that must pay a user fee or the time it takes to pay the user fee.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

This NPRM proposes to establish and revise user fees for services provided by the Coast Guard pursuant to the Congressional mandate contained in 46 U.S.C. 2110. Congress has not granted the authority to the States to establish user fees for Coast Guard-provided services. This NPRM would not impact a State’s general ability to render services or assess or collect fees for State-rendered services. Therefore, this rule does not have federalism implications as described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications

and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule would have implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under Executive Order 13211, because although it is a “significant regulatory action” under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB’s Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This proposed rule would be categorically excluded under paragraphs L54 and L57 of Appendix A, Table 1 of DHS Instruction Manual 023-01, Rev. 1.²⁵ Paragraph L54 pertains to regulations which are editorial or procedural. Paragraph L57 pertains to regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

This proposed rule would update the existing user fee for seagoing towing vessels that are 300 gross tons or more and establish specific user fees for other towing vessels that have more recently become subject to inspection. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 2 as follows:

PART 2—VESSEL INSPECTIONS

1. The authority citation for part 2 is revised to read as follows:

²⁵ https://www.dhs.gov/sites/default/files/publications/DHS_Instruction%20Manual%20023-01-001-01%20Rev%2001_508%20Admin%20Rev.pdf.

Authority: Sec. 622, Pub. L. 111-281; 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3316, 3703, 70034; Department of Homeland Security Delegation No. 0170.1(II)(77), (90), (92)(a), (92)(b); E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1-105.

2. Amend § 2.10-25 by:

a. Revising the definition of “*Sea-going towing vessel*”; and

b. Adding the definitions in alphabetical order for “*Alternative Compliance Program option*”, “*Annual vessel inspection fee*”, “*Coast Guard option*”, “*Streamlined Inspection Program option*”, “*Towing Safety Management System option*”, and “*Towing vessel*”.

The additions and revision read as follows:

§ 2.10-25 Definitions.

* * * * *

Alternative Compliance Program option means the option described in 46 CFR part 8, subpart D.

Annual vessel inspection fee means the fee charged for inspection and related services provided by the Coast Guard to determine whether a vessel meets the requirements to maintain its Certificate of Inspection.

Coast Guard option means an option used by—

(1) A vessel inspected under a 46 CFR subchapter that is not participating in the Alternative Compliance Program described in 46 CFR part 8, subpart D;

(2) A vessel inspected under a 46 CFR subchapter that is not participating in the Streamlined Inspection Program described in 46 CFR part 8, subpart E; or

(3) A vessel inspected under 46 CFR subchapter M that is not participating in the Towing Safety Management System option described in 46 CFR part 138.

* * * * *

Seagoing towing vessel means a commercial vessel 300 gross tons or more engaged in or intending to engage in the service of pulling, pushing or hauling alongside,

or any combination of pulling, pushing or hauling alongside, and that makes voyages beyond the Boundary Line as defined by 46 U.S.C. 103, and has been issued a Certificate of Inspection under the provisions of subchapter I of this chapter.

* * * * *

Streamlined Inspection Program option means the option described in 46 CFR part 8, subpart E.

* * * * *

Towing Safety Management System option means the option described in 46 CFR part 138 for towing vessels subject to 46 CFR subchapter M.

Towing vessel means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.

* * * * *

3. Amend § 2.10-101, in Table 2.10-101, by:

a. Revising the “Sea-going Towing Vessels” entry; and

b. Adding an entry for “Towing Vessels (Inspected under 46 CFR Subchapter M)”.

The addition and revision read as follows:

§ 2.10-101 Annual vessel inspection fee.

* * * * *

**Table 2.10-101—Annual Vessel Inspection Fees for U.S. and Foreign Vessels
Requiring a Certificate of Inspection**

* * * * *	
Seagoing Towing Vessels (Inspected under 46 CFR Subchapter I):	
Coast Guard option	\$2,747
Alternative Compliance Program option	\$1,850
Streamlined Inspection Program option	\$2,260
* * * * *	
Towing Vessels (Inspected under 46 CFR Subchapter M):	
Coast Guard option	\$2,184
Towing Safety Management System option	\$973

* * * * *

Dated: December 23, 2021.

Karl L. Schultz,
Admiral, U. S. Coast Guard,
Commandant.

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